



TOWN OF SPENCER

Office of the Town Clerk

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Laura J. Torti,
Town Clerk
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Assistant Town Clerks

Special Town Meeting December 5, 2013 Memorial Town Hall

The meeting was called to order at 7:12 p.m. by Moderator Peter J. Adams. Mr. Adams advised that a quorum was present.

Mr. Adams noted that the Reading of the Return of the Warrant was waived and that the meeting was posted in accordance with the law. The Moderator asked for a moment of silence to remember Nelson Mandela who passed away on this day, then led the audience in the Pledge of Allegiance.

The Moderator introduced to attendees, himself, members of the Board of Selectmen, Town Administrator, Town Counsel and Town Clerk. He also introduced the Board of Registrars and Assistant Town Clerk. Chairwoman Mary Braney introduced the Finance Committee members present.

The Moderator reviewed the ground rules and parliamentary procedure for Town Meetings. He also thanked Spencer Cable Access Studio for broadcasting the meeting.

The following articles were acted upon:

Article 1: *(Finance committee unanimously recommended approval)*

Moderator declared a unanimous vote to appropriate the sum of One Thousand, Fifty-Four Dollars, and Eight Cents (\$1,054.08) to pay a prior year expense (utility bill) for the Water Department and to meet said appropriation by transferring said sum from certified and available Retained Earnings.

Article 2: *(Finance committee unanimously recommended approval)*

Moderator declared a majority vote to amend Article 15 from May 2, 2013 in order to raise and appropriate an additional sum of One Thousand, Eight Hundred Dollars and No Cents (\$1,800.00) for additional Smith Regional Agricultural High School Transportation Assessment (#11300-52100) for Fiscal Year 2014.

Article 3: *(Finance committee recommended approval)*

Moderator declared a majority vote amend Article 17 from May 2, 2013 in order to raise and appropriate an additional sum of Eight Thousand Dollars and No Cents (\$8,000.00) for additional Norfolk County Regional Agricultural High School Non-resident Transportation Assessment (#11300-52100) for Fiscal Year 2014.

Article 4: *(Finance committee recommended approval)*

Moderator declared a unanimous vote to rescind Article 5 from the May 2, 2013 Annual Town Meeting for the purposes of voting to approve a subsequent article that will correct required Spencer East Brookfield Regional School District assessment contributions in accordance with the decision by the Commissioner of the Department of Education for Fiscal Year 2014.

Article 5: *(Finance committee recommended approval by a vote of 8 in favor with 1 abstention)*

Moderator declared a unanimous vote to, as a block, provided that any amount stated therein shall be for the use of the Spencer-East Brookfield Regional School District for Fiscal Year 2014 in accordance with the decision by the Commissioner of the Department of Education for said Fiscal Year, and to:

1. raise and appropriate the sum of Five Million, Four Hundred Seventy-Three Thousand, Ninety-Three Dollars and No Cents (\$5,473,093.00) for the Operating Assessment (Account #11300-56000) which represents the amount required for **Minimum Local Contribution;**

2. raise and appropriate the sum of One Million, One Hundred Thirty-Eight Thousand, Seven Hundred Eight Dollars and No Cents (\$1,138,708.00) for the Operating Assessment (Account #11300-56000) which represents the amount required for **Transportation Assessment**;
3. raise and appropriate the sum of Seven Hundred One Thousand, four Hundred Twenty-Eight Dollars and No Cents (\$701,428.00) for the Operating Assessment (Account #11300-56000) which represents the amount required for **Additional Local Contribution**; and
4. raise and appropriate the sum of Three Hundred Thirty Six Thousand, Two Hundred Nineteen Dollars and No Cents (\$336,219.00) for the purposes of paying the costs of the **Long Term Debt Assessment** (Account #11300-56010) for previously approved building and design projects that include Wire Village School (\$259,394) and David Prouty High School (\$45,200 for payment #3 and \$31,625 for payment #4).

Article 6: *(Finance committee unanimously recommended approval)*

Moderator declared a unanimous vote to rescind Article 13 from the May 2, 2013 Annual Town Meeting for the purposes of voting to approve a subsequent article that will adjust the Fiscal Year 2014 General Government Operating Budget in order to fund additional assessments for Spencer East Brookfield Regional School District.

Article 7: *(Finance committee unanimously recommended approval)*

Moderator declared a unanimous vote to raise and appropriate the sum of Eight Million, Two Hundred Twenty-Two Thousand, Three Hundred Thirty-Four Dollars and No Cents (\$8,222,334) to pay for the operations of the General Government expenses for Fiscal Year 2014, and to meet said appropriation from a transfer of Sixty Thousand Dollars and No Cents (\$60,000.00) from the Overlay Surplus Account, a transfer of Ten Thousand Dollars and No Cents (\$10,000.00) from the Wetlands Protection Fund, a transfer of Four Hundred Thousand Dollars and No Cents (\$400,000.00) from certified and available Free Cash, from taxation, from available funds in the Treasury, and anticipated receipts as may be needed or decided necessary.

Article 8: *(Finance committee recommended approval)*

Moderator declared a unanimous vote to appropriate the sum of Thirty-Eight Thousand Dollars and No Cents (\$38,000.00) for the purpose of purchasing Firefighter Turn-out Gear and to meet said appropriation by transferring the sum of Twenty Five Thousand Dollars and No Cents (\$25,000.00) from certified and available Free Cash and Thirteen Thousand Dollars and No Cents (\$13,000) from the Maple Street School Boiler Capital Account (#60000-59233).

Article 9: *(Finance committee recommended approval)*

Moderator declared a unanimous vote to accept a permanent drainage easement from Pierre G. Beford on property located at 18 Lincoln Street , Spencer, on such terms and conditions as the Board of Selectmen deem reasonable, appropriate, and in the best interests of the Town.

Article 10: *(Finance committee recommended approval)*

Moderator declared a unanimous vote to amend the General Bylaws Article 9, Section 7 (Late License Fee) by deleting the existing language and replacing with the following:

“An additional fee of \$15.00 shall be charged to each dog owner who fails to license his/her dog on or before June 30th of any year. If June 30th falls on a day that the Town Hall is not open (weekend, holiday, etc.) the late charge will be assessed if payment has not been made by the first following business day. Any owner who fails to license his/her dog upon demand of the Town Clerk thereafter shall be subject to an additional fee of \$25.00.”

Article 11: *(Finance committee recommended approval)*

Moderator declared a unanimous vote to amend the General Bylaws Article 8, Section 16 (Fire Lane Violations) by increasing the fee under paragraph (e) from “\$25.00” to “\$50.00.”

Article 12: *(Finance committee recommended approval)*

Moderator declared a unanimous vote to amend the General Bylaws Article 11, Section 5 (Non-Criminal Disposition) by deleting the existing fine schedule for the Highway Department and replacing with the following:

“HIGHWAY DEPARTMENT

1. EXCAVATION OF PUBLIC WAYS WITHOUT A PERMIT

Fine Allowed:	\$200.00
Fine Schedule:	\$ 50.00 1 st Offense
	\$100.00 2 nd Offense
	\$150.00 3 rd Offense
	\$200.00 4 th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

2. OBSTRUCTION OF STREETS AND SIDEWALKS

Fine Allowed:	\$100.00
Fine Schedule:	\$ 50.00 1 st Offense
	\$ 50.00 2 nd Offense
	\$100.00 3 rd and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

3. DRIVEWAY CUTS AND DRAINAGE WITHOUT A PERMIT

Fine Allowed:	\$200.00
Fine Schedule:	\$ 50.00 1 st Offense \$100.00 2 nd Offense \$150.00 3 rd Offense \$200.00 4 th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

4. FAILURE TO PERFORM OR COMPLETE WORK PER PERMIT REQUIREMENTS

Fine Allowed:	\$200.00
Fine Schedule:	\$ 50.00 1 st Offense \$100.00 2 nd Offense \$150.00 3 rd Offense \$200.00 4 th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

5. SNOW PLOWING AND REMOVAL

Fine Allowed:	\$50.00
Fine Schedule:	\$25.00 1 st Offense \$25.00 2 nd Offense \$50.00 3 rd and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

6. DISTRIBUTING HANDBILLS

Fine Allowed:	\$50.00
Fine Schedule:	\$25.00 1 st Offense \$25.00 2 nd Offense \$50.00 3 rd and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

7. TRASH AND LITTERING

Fine Allowed:	\$200.00
Fine Schedule:	\$ 50.00 1 st Offense \$100.00 2 nd Offense \$150.00 3 rd Offense \$200.00 4 th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

Unless otherwise specified in the By-Laws each day during which a violation continues to occur shall be deemed a separate offense.”

Article 13: *(Finance committee recommended approval)*

Moderator declared a majority vote to accept Massachusetts General Laws Chapter 40, §22F (for the purpose of increasing lien certificate fees), which authorizes municipal officers and boards to establish reasonable fees and charges for any permits, licenses or certificates for any work services performed, if those fees and charges are currently established by statute, to increase them beyond the statutory level, provided that all the revenue from the fees or charges is paid into the municipal treasury.

Amendment to Article 14: *(Finance committee deferred on the Amendment)*

Moderator declared a majority vote to amend Article 14 as follows:

- Amend Section 4.2.E (Retail Business and Consumer Services), by changing SP to N for the Town Center (TC) district
- Amend Section 4.8.8.C.1, by deleting the following text at the end of the first sentence “, and in the Town Center (TC) district pursuant to a Special Permit”
- Amend Section 4.8.8.d, by deleting the following text: “In zoning districts where a RMD special permit is required, the Planning Board shall be the Special Permit Granting Authority (SPGA).
- Amend Section 4.8.8.F. by deleting the following text : “Exemption from RMD Special Permit Requirement:” and “are not required to obtain a special permit, but” so that the sentence reads as follows: “RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 shall apply for Site Plan Approval pursuant to Section 7.4”
- Strike proposed amendments to Section 7.2.1, Special Permit Granting Authority.

Article 14: *(Finance committee recommended by a vote of 8 in favor and 1 opposed to defer to the recommendation of the Planning Board)*

Moderator declared a vote of 92 in favor with 2 opposed to amend its present Zoning Bylaws as follows:

1. Amend the Zoning Bylaw to define and regulate Registered Marijuana Dispensaries as follows:

A. Amend Section 2.2, Definitions, by inserting the following definition in alphabetical order:

REGISTERED MARIJUANA DISPENSARY: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

B. Amend Section 4.2.E (Retail Business and Consumer Services), by inserting a new use #26, as shown below:

ZONING DISTRICTS		RR	SR	LR	VR	TC	C	I
26	Registered Marijuana Dispensary	N	N	N	N	N	Y	Y

C. Insert a new Section 4.8.8, Registered Marijuana Dispensaries, as follows:

4.8.8., Registered Marijuana Dispensaries

- A. Purpose: To provide for the placement of Registered Marijuana Dispensaries (RMDs), in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.
- B. Definitions: where not expressly defined in the Spencer Zoning Bylaws, terms used in this Section 4.88 shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.
- C. Location

1. RMDs may be permitted in the Commercial (C) and Industrial (I) districts by-right with Site Plan Review.
2. RMDs may not be located within 500 feet of the following:
 - (a) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
 - (b) Licensed Child Care Facility;
 - (c) Library;
 - (d) Playground open to the public;
 - (e) Public Park;
 - (f) Youth center;
 - (g) Public swimming pool;
 - (h) Video arcade facility; or
 - (i) Similar facility in which minors commonly congregate.
3. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section C.2. to the nearest point of the proposed RMD's primary structure (i.e., the primary structure related to a proposed RMD must be 500 feet from the property line of a protected use).
4. The distance requirement may be reduced to no less than 300 feet by special permit, but only if:
 - (a) The applicant demonstrates that the RMD would otherwise be effectively prohibited within the applicable zoning district;
 - (b) The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

- D. Procedure: Site Plan Review is required for all RMD applications in accordance with Section 7.4.2.D (i.e. Site Plan Review is required for this use even when there is no new construction or expansion of structures or parking areas).
1. Application: In addition to the materials required under Section 7.4 (Site Plan Review) all applications for RMDs shall include:
 - (a) A copy of its registration as an RMD from the Massachusetts Department of Public Health (“DPH”);
 - (b) a detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs;
 - (c) a description of the security measures, including employee security policies, approved by DPH for the RMD;
 - (d) a copy of the emergency procedures approved by DPH for the RMD;
 - (e) a copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;
 - (f) a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
 - (g) a copy of proposed waste disposal procedures; and
 - (h) a description of any waivers from DPH regulations issued for the RMD.
 2. Copies of the application shall be referred to other Town Departments in accordance with Section 7.4.3.B. In addition, a copy shall be referred to the Police Department.
- E. Conditions on RMDs: The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant’s RMD, the Planning Board shall include the following conditions in any permit granted under this Bylaw:
1. Hours of Operation, including dispatch of home deliveries.
 2. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
 3. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.
 4. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
 5. The permit shall lapse within five (5) years of its issuance. If the permit holder wishes to renew the permit, an application to renew the permit must be submitted at least 120 days prior to the expiration of the permit.

6. The permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
 7. The permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
 8. The permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
- F. RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A § shall apply for Site Plan Approval pursuant to Section 7.4.
- G. Prohibition Against Nuisances: No use shall be allowed under this Section 4.8.8 which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
- H. Severability: The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.
- 2. Amend the Zoning Bylaw by deleting the existing Section 4.8.8. adopted May 2, 2013, Article 29 (Temporary Moratorium on Medical Marijuana Treatment Centers)**

A motion was made and seconded to dissolve the Meeting.

Majority voted at 7:49 p.m. to dissolve this Meeting.

A total of 111 registered voters attended this Meeting.

Laura J. Torti
Town Clerk